

The Gazette of India

EXTRAORDINARY

PART II—Section 3

PUBLISHED BY AUTHORITY

No] 283 NEW DELHI FRIDAY SEPTEMBER 16, 1955

ELECTION COMMISSION, INDIA

NOTIFICATION

New Delhi, the 8th September 1955

S.R.O. 2057.—Whereas the election of Shri Gian Chand and Shri Roshan Lal as members of the Legislative Assembly of the State of Pepsu, from the Kandaghat constituency has been called in question by an election petition duly presented under Part VI of the Representation of People Act, 1951 (XLIII of 1951), by Shri Ranjit Singh, son of Shri Mathroo, Koli, of Village Satrol, Tehsil Kandaghat, District Patiala;

And whereas, the Election Tribunal appointed by the Election Commission, in pursuance of the provisions of Section 86 of the said Act, for the trial of the said Election Petition has, in pursuance of the provisions contained in section 103 of the said Act, sent a copy of its Order to the Commission;

Now, therefore, in pursuance of the provisions of Section 106 of the said Act, the Election Commission hereby publishes the said Order of the Tribunal.

BEFORE THE ELECTION TRIBUNAL, PATIALA

Nawal Kishore—*Chairman.*

Dalip Singh—*Member.*

Krishna Sahai—*Member.*

ELECTION PETITION No. 24 of 1954

S. Ranjit Singh, son of Mathroo, Koli, of village Satrol, Tehsil Kandaghat, Distt. Patiala—*Petitioner.*

Versus

1. Gian Chand s/o Joti Parshad of Totu,
2. Roshan Lal s/o Ganeshu Ram of Sanowar,
3. Bija Kumar s/o Kanshi Ram of Sohgin,
4. Ch. Chhaju Ram, son of Kaloo Ram of Panjour—*Respondents*—
Distt. Patiala.

ORDER DELIVERED ON 30TH AUGUST 1955

This is an Election Petition under section 81 of the Representation of the People Act, 43 of 1951 presented by S. Ranjit Singh challenging the election of Shri Gian Chand, respondent No. 1 and Shri Roshan Lal, respondent No. 2 to the Patiala and East Punjab States Union Legislative Assembly from the double membership Constituency of Kandaghat in Patiala District. One of the two seats was reserved for a Schedule Caste Candidate. The petitioner and the four respondents were candidates for the said election. The petitioner and respondent No. 2 Shri Roshan Lal were candidates for the Schedule Caste Seat while respondents No. 1, 3 and 4

contested the General Seat. The polling took place on the 18th of February 1954 and as the result of the election respondents No. 1 and 2 were declared elected to the General Seat and the Reserved Seat respectively. The petitioner was sponsored by the Akali Party while Respondents No. 1 and 2 were set up by the Congress.

According to the petitioner, the election of the two respondents is void for various reasons. It is stated in the petition that the election has not been a fair and free election because the corrupt practice of bribery or undue influence has extensively prevailed at the election. It is alleged that the respondents abetted persons to personate at the election; took assistance of Government servants for the furtherance of the prospects of their election, and hired and procured vehicles to carry voters to various polling stations and that the return of election expenses lodged by them was false in material particulars. It is alleged that the result of the election was materially affected because of the corrupt and illegal practices committed by the respondents No. 1 and 2. Particulars of corrupt practices are given in the particulars appended to the petition.

The petition was presented to the Election Commission, India on 1st June 1954 but although there was reference to Appendix "F" in the petition the Appendix "F" was not appended and particulars of the allegations made in paragraph 6(f) were omitted from the petition. The Commission brought this fact to the notice of the petitioner by its letter dated 5th June 1954. The petitioner thereupon sent to the Commission a copy of the Appendix 'P' to be made a part of the petition by his letter, dated 15th of June 1954. Certain other defects were also pointed out by the Commission with respect to the verification of certain paragraphs and these were also removed by the petitioner.

The petition is contested by respondents No. 1 and 2 only. It is contended that the petition is barred by time inasmuch as the Appendix 'F' was added after the period of limitation and that there was no proper petition before the Election Commission on the 1st of June 1954. The respondents deny having committed any corrupt or illegal practice as alleged in the petition and set forth in the annexures. They deny that they procured persons to personate at the election or that they obtained any assistance from any Government servants. They deny having hired or procured vehicles to carry voters to the polling stations or that their return of expenses are false in any material particular.

On the pleadings of the parties the following issues arise:—

ISSUES:

- (1) (a) Whether the petition is within time? O.P. on petitioner.
(b) Whether the petition has been properly verified? O.P. on petitioner.
- (2) Whether the election has not been fair and free and has been prejudiced and induced by undue influence, illegal practices and corrupt practice of bribery? O.P. on petitioner.
- (3) Whether the allegations contained in annexure 'A' are true and correct and amount to corrupt practices of bribery, undue influence and illegal practice? O.P. on petitioner.
- (4) Whether respondents No. 1 and 2 themselves and through their agents committed corrupt practices and abetted and attempted to procure Harbans Lal and Nakli Lal to personate at the election at several polling stations as alleged in annexure 'B'? O.P. on petitioner.
- (5) Whether the respondents and their agents with their connivance took the assistance of Government servants mentioned in annexure 'C' for the furtherance of the prospects of their election? O.P. on petitioner.
- (6) Whether respondents 1 and 2 and their agents with their connivance hired and procured vehicles for the conveyance of electors to the polling stations and back as alleged in annexure 'D'? O.P. on petitioner.
- (7) Whether the returns of election expenses lodged by respondents 1 and 2 are false in material particulars as alleged in annexure 'E'? O.P. on petitioner.
- (8) Whether respondents 1 and 2 incurred un-authorised expenditure in employment of persons for propaganda purpose in contravention of law as stated in annexures 'E' and 'F'? O.P. on petitioner.
- (9) Whether annexure 'F' was filed after the period of limitation and should not be taken into consideration? O.P. on petitioner.

- (10) If it is found that the returns of election expenses filed by respondents 1 and 2 were false, have they incurred a disqualification for that reason and is their election liable to set aside as void? O.P. on respondents.
- (11) To what relief is the petitioner entitled?

Before dealing with the merits of the case we are constrained to remark that the petition in this case has not been properly drafted. The petitioner does not contain a concise statement of the material facts on which the petitioner relies. The petition is only a copy of the grounds set forth in Section 100 of the Act for declaring the election to be void. It is only in the annexures that we find some facts of the case. We have had occasion to remark in certain other cases also that the provisions of the Act are not adhered to in drafting the election petitions. The learned counsel for the respondent rightly urges that the requirement of law is not fulfilled where the petition itself does not contain the material facts on which the petitioner relies. Annexures are meant to set forth full particulars of any corrupt or illegal practice which the petitioner alleges in the petition and cannot take place of the petition itself. Election Law in India is yet in its infancy and while we consider that strict adherence to the provisions of the Statute in drafting petitions is necessary. We do not consider it advisable to penalise the petitioner by dismissing his petition on this ground alone.

Issue No. 1.—The learned counsel for the respondents did not press this issue. We hold that the petition is properly verified and was presented within limitation.

Issues No. 2 and 3.—Particulars of bribery and undue influence are contained in Annexure 'A' of the petition. One Rahu is stated to have voted in place of his brother Sita Ram. It is stated that Rahu was induced to personate for Sita Ram by one Sardha Ram, a Congress worker. The petitioner had no personal knowledge of the incident and besides his statement there is no other evidence to prove the incident. There is no evidence to connect the respondents with this incident even if it had taken place and the learned counsel for the petitioner very rightly did not press this point.

With regard to the second paragraph also there is no evidence. There is no proof that ballot paper No. 749000 was found in same ballot box at a polling station at which that paper was not issued. The learned counsel did not press this point also.

In Appendix 'B' two persons Harbans Lal and Nakli Lal are said to have voted in Himachal Pradesh and also in this constituency. This allegation was waived by the petitioner in his statement and was not pressed by the learned counsel.

Issue No. 5.—Particulars regarding the allegation of assistance obtained from the Government Servants are set forth in Appendix 'C'.

It is alleged that the respondents No. 1 and 2 procured the assistance of Shri Durga Dhar Jayal S. D. M. Kandaghat who toured all the villages in the company of the two respondents and their agents. He is stated to have held a large number of meetings to canvass support for the Congress candidates and is stated to have exercised all his official influence to induce the Lamberdars of the villages to vote and procure votes for the respondents. These are very general allegations. No names of villages are given and no dates of the visit are mentioned. The agents who are said to have accompanied the S. D. M. have not been named in the petition.

In the petition the S. D. M. is stated to have toured all the villages in the constituency but evidence is produced of his visit to only four villages, namely Barog, Sairi, Chhauchha and Saproon. The petitioner has stated that he met the S. D. M. at Panjor but he does not attribute any act to him of which he could complain.

At Barog the S. D. M. is stated to have collected residents of the village and made a speech in which he asked them to help the Congress and not to vote for the petitioner because if the petitioner was elected, the Sikhs would come into power. The petitioner himself was not present at Barog and has no personal knowledge of these allegations. P.W. 6 Krishna Datt has been produced to prove this fact. Krishan Datt describes himself as a member of the Praja-Socialist Party. He states that he was supporting the respondents in their election. But he states that when the S. D. M. made his speech at the meeting he got up and protested to the S. D. M. that by his speech he was helping the Congress. Thereupon the S. D. M. is stated to have threatened to arrest him. It is not clear why a supporter of the Congress candidates should object to a speech in favour of

the Congress. He states that he boldly protested at the meeting and yet he did not follow it up with any complaint to any higher authority. Another significant fact is that he belongs to village Sultanpur but deposes to what happened at Barog. The only other witness to corroborate the statement of Krishan Datt is P.W. 10 Chanku Ram of Phaluh. He states that he happened to visit Barog and saw the S. D. M. there. He reached the place after the meeting was over but states that the S. D. M. was still surrounded by people and he was asking them to vote for the Congress. Chanku Ram has also now become a member of the Praja-Socialist Party and belongs to the community of the petitioner. It is surprising that no one from Barog who may have attended the meeting has been produced. We have no hesitation in discarding the evidence of these two witnesses who may be described as mere chance witnesses.

At village Sairi the S. D. M. is stated to have addressed a meeting of about 200 or 250 persons and asked them to vote for the Congress. P.W. 2 Dhania of Bharohi who is a Chokidar of village Bhoj states that he was present at the meeting in Sairi. He further states that the S. D. M. had told him that Shiba Chokidar had complained to him that Amar Singh was going to vote for the petitioner and that he must be stopped from doing so. He states that on the next day he along with Shiba went to Amar Singh's house and told him that the S. D. M. had called him. This witness again does not reside in Sairi. He belongs to the same caste as the petitioner. It does not appear from the evidence why he was singled out by the S. D. M. to approach Amar Singh. Amar Singh does not belong to his village but resides in village Galot. Shiba Chokidar who made the report to the S. D. M. has not been produced. P.W. 3 Amar Singh was not present at the meeting at Sairi but he states that Dhania and Shiba had gone to his house and had told him that he was going the wrong way and that he should support the Government. They also told him to see the S. D. M. and he went to Kandaghat and met the S. D. M. and told him that he would do as he was told. If the statement is correct we do not know why so much importance was given to this one voter and why he so readily agreed to do as the S. D. M. wished him to do. He admits in cross-examination that he had helped the petitioner in the previous election. We feel that he has come to support the petitioner once again and we can place no reliance on his evidence. Dhania is also not a truthful witness and seems to support the petitioner because of the ties of brotherhood. Another witness of this meeting is P.W. 7 Vijay Kumar who is respondent No. 3. He states that he came to know of the meeting and went to Sairi but concealed himself from view and heard the S. D. M. ask the people to vote for the Congress. Even he made no report of the incident. He states that he had come to know of the meeting two days earlier. Even then he made no attempt to inform the higher authorities to stop the meeting. The statement of this witness is unbelievable. He is a defeated candidate and is helping the petitioner against the respondents who have won at the election against him.

At Chhauchha the S. D. M. is said to have addressed a meeting at which about 300 persons were present. There too he asked the people to vote for the Congress. To prove this allegation only one witness P.W. 4 Punnu is produced. He belongs to village Bhumbhal but states that he was present at Chhauchha when the S. D. M. visited the place. He does not explain how he happened to be in that village exactly at the same time as the S. D. M. He gives no date of his visit nor can he name the day. He goes so far as to say that Lamberdar Sita Ram had invited the S. D. M. to come to the village and he had gone to receive him with a band. We are not prepared to believe this fantastic story. No other witness is produced in support of this allegation. It is surprising that not one witness from Chhauchha was produced although there were stated to be 300 persons present at the meeting.

At Saproon also the S. D. M. is said to have held a meeting and asked people to help the Congress. Muni Lal P.W. 5 states that he was present at the meeting at Saproon and when the S. D. M. hinted that the people should vote for the symbol of two bulls, he got up and protested at the meeting. The meeting was then adjourned and the S. D. M. threatened to get him arrested. Like P.W. 6 Krishan Datt this witness is a member of the Praja-Socialist Party but he states that he was helping the petitioner in the election and not the respondents. He is a resident of Shamlhech but he was present at the meeting at Saproon. He made a protest at the meeting but did not report the matter to either the petitioner or to the higher authorities. The petitioner was a candidate of the Akali Party and it is not conceivable that an organised party would not protest at such happenings and report the matter to the Election Commission or to the Government. In this

case also no one is produced from Saproon and Muni Lal is the only witness to prove the allegation. His statement has not been corroborated by any other witness.

P.W. 9 Jit Ram states that he was called by the S.D.M. to his house where he told him to support the respondents. This allegation has not been made in the petition or the particulars and the respondents' learned counsel has argued that this allegation is new and ought not to be examined. We find that the contention has force and we ignore the statement of Jit Ram on this point.

It is thus clear that there is evidence with regard to four villages only which are alleged to have been visited by the S.D.M. To prove the meetings at Barog and Sairi two witnesses for each place have been produced and for meetings at Chhauchha and Saproon one witness for each place has been examined. No witness of these villages have however been examined. The respondents have denied the allegation and have produced a large number of witnesses from different villages to say that the S.D.M. had not visited their villages. The S.D.M. has himself appeared as R.W. 21. We have it in his statement that he was also the Returning Officer in the Constituency and as such it was his duty to arrange setting up of polling stations. He has stated what places he had visited during the months of January and February, 1954 and for which purpose. He had a memorandum of his T. A. Bills and also gave the dates of his visits. He did not visit the villages mentioned by the petitioner's witnesses except Chhauchha which he visited one day before the polling i.e. on the 17th February, 1954 for the inspection of the polling station. He has categorically denied that he canvassed support for any party or candidate in any village. We do not propose to discuss the evidence of all the sixteen witnesses examined on this point by the respondents but we may state that the respondents have produced R.W. 4 Shiv Datt, R.W. 5 Kapoor Chand, R.W. 8 Narain Dass, R.W. 10 Gulab Singh and R.W. 14 Khazan Singh who were alleged to be the agents of the respondents and were said to have toured the villages with the S.D.M. They have all denied having gone to the villages in the company of the S.D.M. We see no reason to disbelieve this evidence corroborated as it is by the S.D.M. The learned counsel for the petitioner has urged that these witnesses are a party to the corrupt practice and as such are like accused persons in a criminal trial and their statement is only a denial of their guilt and as such no reliance should be placed on their evidence. We do not consider that this is a correct method of weighing the evidence. When a charge of corrupt practice has been made against these persons they are the best persons to enter the witness box to deny the charge. Unlike an accused in a criminal trial these persons make a statement on oath and lend themselves to cross-examination. Their evidence must, therefore, be examined on its own merit and cannot be discarded as altogether useless.

Our finding is that the evidence produced by the petitioner on the point falls far short of proof of the reckless allegations made in the petition. The evidence is much too vague, insufficient and unreliable to prove the assistance of the S.D.M.

Another group of Government servants stated to have helped the respondents are Jagdish Chand, Teacher, Government School, Dera Bassi, Paras Ram, Patwari and Kishan Chand, Patwari. The allegation is that these three persons together toured the villages in the vehicles of Respondents No. 1 and 2 and secured votes for them. In proof of this allegation there is the evidence of the petitioner himself, P.W. 11, Dalip Singh and P.W. 12 Balwant Singh. The petitioner, however, has no personal knowledge of what these people did. Dalip Singh states that he saw Jagdish Chand and Paras Ram canvassing support at meetings in several villages. He does not name Kishan Chand, Patwari at all. He is a commission agent from Dera Bassi. He states that he saw these agents of the respondents at meetings at Dera Bassi and also at several other villages when he went from village to village on business and these agents also happened to visit these villages at the same time and in the same order. He was a member of the Dera Bassi Municipality for two months. Then he was disqualified for a period of 5 years. He states that he was removed on political grounds. He says he was asked to work for the Congress and he refused to do so. Then he realised that he was playing into the hands of the cross-examiner and hastened to add that he was not "anti-Congress". The only other witness on the point is P.W. 12, Balwant Singh. He also does not name Kishan Chand. He however states that he saw Jagdish Chand, teacher and Paras Ram, Patwari at several

meetings at Dera Bassi and other villages canvassing support for the congress candidates. He is also a commission agent from Dera Bassi. He gives no dates of these meetings and says that he happened to reach the villages when those people were holding meetings. He is also a chance witness and it is a coincidence indeed that he reached all the three villages mentioned by him exactly at the same time when the respondents were holding their meetings. No one from these villages who may have been present at the meeting has been produced. This is the whole evidence to prove the help given by Jagdish Chand and Paras Ram to the respondents. The witnesses do not even state that exactly these two persons said to the audience. We consider this evidence as absolutely insufficient and do not place any reliance on it. The respondents, have produced R.W. 23, Jagdish Chand, teacher, R.W. 38, Paras Ram Patwari, R.W. 29 Hira Singh, Zaildar, R.W. 25 Balwant Singh, and R.W. 30, Munshi Ram to rebut this evidence. Paras Ram, Jagdish Chand, Hira Singh Zaildar deny having toured the villages to canvass support for the respondents. R.W. 25, Master Balwant Singh, a retired Headmaster resident of Dera Bassi states that he presided over two or three meetings in his village in support of the respondents but at none of these meetings either Jagdish Chand, teacher or Paras Ram, Patwari was present. R.W. 30 Munshi Ram is the President of the Municipal Committee at Dera Bassi. He states that he was present at all the three meetings held in support of the congress candidates in Dera Bassi and at none of these meetings Jagdish Chand and Paras Ram were present. It may be noted that P.W. 12 Balwant Singh states that R.W. 25, Master Balwant Singh and R.W. 30, Munshi Singh were present at the meetings at Dera Bassi at which they canvassed support for the respondents.

There is therefore no evidence at all of any support given by Kishan Chand Patwari and the evidence of help given by Jagdish Chand and Paras Ram is wholly insufficient to prove the allegation.

Sukh Ram or Ram Sukh teacher, Government High School, Sabathu is alleged to have arranged a political conference in support of the respondents. The petitioner has placed on record a letter in English Ex. P2 which purports to have been written by Shri Roshan Lal, Respondent No. 2 to Master Sukh Ram. In the letter Respondent No. 2 has thanked Master ji for "the relevant information" and has informed him that he would "attend the Political Conference" and reach "Subathu on the 10th at 11 A.M." The petitioner alleges that it is clear from this letter that Master ji gave the respondent No. 2 "the relevant information" about the political conference and the respondent attended it. The suggestion is that this conference was to canvass support for the respondents in their election. To make the allegation strong it is stated in the petition that it was Master Sukh Ram who had arranged the political conference although the letter Ex. P.2 does not say so nor is there any other evidence to show that it was convened by him. The Petitioner was not present at the conference and he states in cross-examination that one Jagir Singh had written to him from Subathu that the conference was addressed by Master Sukh Ram also. Jagir Singh has however not been produced and we are left with only the letter Ex. P2 to infer that a Political Conference was held in September, 1953 at Subathu, that it was called by Master Sukh Ram, that the respondents No. 1 and 2 went to the conference; that the conference was held to support the election of the respondents and that actually support for the respondents was sought at this conference; that Master Sukh Ram also spoke in support of the two respondents. It is impossible to infer all this from the letter Ex. P.2. We may say at the very outset that it is not possible to charge the respondents with corrupt practice of seeking help from a Government servant on the basis of this letter. The letter itself bears clear and unmistakable signs of interpolations. The letter begins by acknowledging Master ji's letter "dated 25th September 1953". The respondent No. 2 has stated that the letter was written in 1951 in reply to Masterji's letter dated 5-9-1951 and that the date 5 has been changed to 25 and the year is changed from '51' to '53'. The marks of erasure on the paper where the figure 5 of '53 is written are clear to the naked eye and it is suggested that the figure was '51. In the date the digit 2 has been added to the digit 5 as the alignment of the added digit is clearly different from that of the rest of the date and writing. Respondent No. 2 has produced the original letter of Master Ram Sukh, dated 5-9-1951 Ex. R1 and a carbon copy of the letter Ex. P2. Respondent No. 2 was a Deputy Minister in 1951 and maintained a file of his personal correspondence. R.W.36 Kuldeep Singh was a typist with the Deputy Minister in 1951 and states that he had typed the letter and had placed the carbon copy Ex.R.2 on the file. A document expert, Shri K. S. Puri, has been examined as R.W. 35 and has explained to us his reasons why he has come to the conclusion that R.2 is a carbon copy of

the letter Ex.R.2. The reasons are set forth fully in his report Ex. R.W. 35/1 and it is not necessary to go into the details here.

As has been stated above the letter Ex.R.2 bears clear marks of having been tampered with. The top of the letter paper has been torn off. Respondent No. 2 has produced a letter paper similar to the paper on which the letter is written and it has a printed letter-head giving the name of Roshan Lal and his designation as Deputy Minister. As the respondent was a Deputy Minister in 1951 and not in 1953 it became necessary to tear off that portion of the letter-paper. Then again the letter is addressed as "Dear Master Ji" and it was necessary to show that 'Master Ji' was no other than Master Ram Sukh. A further addition was made in Ex.R.2 at the end of the letter and in the left hand corner by adding the address "Master Sukh Ram, Government High School, Subathu (Simla Hills)". This address does not appear in the carbon copy Ex.R.2. The document expert has again come to our help in showing to us that the address is an addition with a different type-writer altogether. We again do not propose to give details of the various reasons given by the document expert. We consider it enough to say that the letter 'M' in Master ji at the top of Ex.R.2 is not in the same type as the letter 'M' in Master Sukh Ram in the address. The difference is apparent to the naked eye and the two could not have been typed on the same machine.

Master Ram Sukh R.W. 37 has appeared before us. He has stated that his name is not Sukh Ram. He has signed his letter Ex.R. 1 as Ram Sukh and such a mistake in the name as in Ex.R. 2 could only be made by some one who was not familiar with Master Ji. It is in evidence that Respondent No. 2 had been a student of Master Ram Sukh and he could not make this mistake. We have, therefore, come to the conclusion that Ex.R. 2 is a suspicious document. We take a serious view of the production of such a document in the case and censure it in no uncertain terms. We are, however, not in a position on the evidence on the record to apportion the liability for tampering with the letter on any particular individual and leave the matter there.

The next allegation is that S. Surinder Singh, Presiding Officer at Dera Bassi, helped the Congress candidate by casting 300 ballot papers in the ballot boxes of Respondents No. 1 and 2. There is absolutely no evidence on the record to prove this allegation. The petitioner states that one Captain Daljit Singh had told him of this but the Captain has not been produced. This is a reckless allegation like many others which the petitioner has failed to substantiate.

Then there is a group of twelve persons, ten Lamberdars, one Zaildar and one Chokidar who are mentioned in the petition as having taken active part in propagating in favour of the congress candidates. Here, too, we find that there is no evidence at all in respect of any of them—another instance of allegation recklessly made and no attempt to substantiate it. The respondents have, however, taken upon themselves to produce seven out of the twelve persons named but as there is no evidence of any assistance given by any of these Government servants it is not necessary to examine the evidence of the respondents' witnesses on this point.

This disposes off all the allegation in Appendix 'C'. Issue No. 5 is decided against the petitioner.

Issue No. 6.—The allegation is that the respondents carried voters on the polling day in cars No. 809 Him. and 1952 P.U. from Singhapura and Bhuda to polling station at Nagla between 8 A.M. and 11 A.M.; the same cars are stated to have carried voters from Kiari Bangla to Kandaghat polling stations at 4 P.M. In proof of this allegation two witnesses, namely P.W. 1 Siri Ram Vaid and P.W. 9 Jit Ram have been produced. Siri Ram Vaid states that he belonged to the Praja Socialist party and on the day of the polling was present at Kandaghat polling station, as it was his duty to issue identity slips to voters. In his examination-in-chief he states that he gave chits to voters of whatever party came along but in cross-examination, he admitted that he was sitting in the camp of the petitioner as his party was supporting him. He states that at about 4 P.M. the two cars mentioned above came to the polling station. The respondents were seated in one car and the other car was occupied by Mrs. Roshan Lal and the wife of Shri Jagat Narain, Minister. He goes on to state that he saw both these cars being taken by Gulab Singh to Kiari Bangla and coming back with voters from there. He does not state whether the respondents and the two ladies remained seated in the cars and they also went to bring voters or that they were left behind and Gulab Singh went alone. In the Examination-in-Chief he does not name any voter who was brought to the polling station in these

cars. But in cross-examination he names Gita Ram, Nathi, Ganga Bishan Contractor and a Road Inspector. None of these persons have been examined by the petitioner. Sri Ram further admits that he did not see these persons take identity slips or cast their votes. He could not therefore be certain that they were voters at all even if they were carried in the cars to Kandaghat. But this witness was admittedly a worker of the petitioner and as such he is not an unbiased witness and his evidence does not inspire confidence. P.W. 9 Jit Ram was the acting Vice-president of the Tenants Association. He states that at first he supported the petitioner but later the S.D.M. Shri Durga Dhar Jayal asked him to help the congress candidates and he began to work for the two respondents. He was present at Kandaghat polling station on the polling day and states that he saw Gulab Singh, Secretary of the Congress bringing voters in two cars. When asked in cross-examination he gave the names of Manohar, wife of Ganga Bishan and Kaku Ram as the persons brought in these cars. This list is entirely different from that given by P.W. 8, and none of these persons has been produced either. Both P.W. 8 Sri Ram and P.W. 9 Jit Ram cannot give the description of the two cars. They say that the two cars were small and were taxies while we know that at least one car 1952 PU was a private car in the use of the respondents. Sri Ram states that the respondents were sitting in one car and the two ladies in the other while Jit Ram denies the presence of the respondents altogether. The respondents have produced R.W. 10 Gulab Singh who denies having brought any voters to the polling station. He states that he was a polling agent of one of the respondents at Kandaghat and remained inside the polling station all day. He had no car at his disposal and he did not leave the polling station at all. The learned counsel for the petitioner has not attacked this part of the statement of this witness in his lengthy cross-examination and there is no reason to disbelieve the statement that he was a polling agent of one of the respondents and as such remained inside the polling station all day. Both P.W. 8 and P.W. 9 have stated that it was Gulab Singh who had brought the voters in the two cars. Further R.W. 18 Ganga Bishan states that his father and uncle went with him to the polling station on foot. He himself rode a cycle a part of the way. His wife although a voter did not go to cast her vote at all. He denies that any car was brought to Niari Bangla to carry voters.

P.W. 18 Maya Vati is the only witness who states that she was carried from her village Bhuda to Nagla polling station. She states that there were three men also who were carried in the car with her to the polling station. None of these persons has been produced. She names Parsini as the other woman carried to the polling station. Parsini R.W. 39 has been produced by Respondents and she states that she and Maya Vati had both gone on foot to the Polling station. We are under the circumstances not prepared to place any reliance on the uncorroborated testimony of Maya Vati and hold that the petitioner has failed to prove that voters were carried in motor vehicles to the polling stations.

One witness P.W. 13 Bakhshish Singh has been produced to prove that voters were carried to Nagla polling station in carts from Lohgarh. He states that Pars Ram and Hira Singh, Zaildar had come to his village to ask for votes and he told them that the women of the village could not go to the polling station on foot and that carts ought to be provided. He states that he was actually paid Rs 30 to convey the women to the polling station. He does not name any woman who may have gone in his cart although he states that there were 30 or 35 women who went in his and Rattan Singh's carts. Not one of these women has been produced by the petitioner. Even Rattan Singh has not been produced. The respondents have produced R.W. 26 Nath Singh, Lamberdar of Lohgarh who states that the voters of his village went on foot. The land round the village was marshy and even carts could not ply. He states that Rattan Singh owns no cart at all and although Bakhshish Singh has a cart he had himself gone to cast his vote on foot.

Next it is alleged that Truck No. 3519 P.U. owned by L. Banwari Lal was openly used to carry voters to Dharampur polling station. It is not stated from what village the voters were carried. There is no evidence to prove the allegation. The respondents have produced R.W. 24 Banwari Lal the owner of the Truck No. P.U. 3519 and he states that the truck was unfit for use on the polling day. He has, however, not produced the log book kept with the truck, but as the petitioner has not produced any evidence on the point it is not necessary to offer any comment on the statement of Banwari Lal. This issue is accordingly decided against the petitioner.

Issues 7, 8 and 10.—Amar Singh Kavishar is alleged to have received a sum of Rs. 225 for propaganda done by him for the respondents and this amount has

not been shown in the return of expenses. In the petition the amount is stated to have been paid to Amar Singh Kavishar Jatha. All the witnesses produced by the petitioner name only Amar Singh. No one has stated that there was a Jatha or companions with Amar Singh. This, however, is of no great consequence. Besides Amar Singh himself, 5 other witnesses have been produced by the petitioner on this point. P.W. 11 Daljit Singh and P.W. 12 Balwant Singh are the two commission agents who had gone from village to village and found the respondent's agents holding meetings, P.W. 13 Bakhshish Singh is the cartman from Lohgarh. P.W. 15 Kirpal Singh and P.W. 16 Buta Singh are other witnesses who all state that they saw Amar Singh Kavishar going about in the villages doing propaganda for the respondent. They state that on being asked why he, a Sikh, was working for the congress candidate, he replied that he was being paid for his work. The statement of P.W. 15 Kirpal Singh is very significant on this point. In his cross-examination, he admits that Amar Singh is his neighbour and belongs to the Akali Party. Amar Singh himself makes an amusing statement on this point. When asked whether he was a congressman or a member of the Akali Party he replied that he was a congressman but soon added that he did not know the difference between the Akali Party and the congress. The respondents deny having anything to do with Amar Singh. They state that they neither employed him for doing propaganda nor paid him any sum of money. The respondents have produced R.W. 7 Babu Lal, R.W. 25 Master Balwant Singh, R.W. 26 Nath Singh, R.W. 27 Hira Singh, R.W. 30 Munshi Ram and R.W. 31 Ram Sarup from different villages who have all deposed that they never saw Amar Singh doing any propaganda in the villages for the respondents. Attempt has again been made by the petitioner to produce some documentary evidence in support of his case. Ex. P. 3 is a post card said to have been written by Amar Singh to Shri Roshan Lal and Shri Gayan Chand. The letter is in Urdu and is dated 16th February, 1954. It is a clever drafted document. Briefly translated it would read thus "You paid me Rs. 150 and had promised to pay Rs. 75 more. You should send the money direct to me. Do not give it to Paras Ram Patwari. I have done propaganda for you in the constituency, and you should not worry about the result and you both will win. Send the money soon otherwise we shall stop work. Sardar Bakhshish Singh of Lohgarh has also said that the hire of cart which you had promised to give him should also be sent direct and not through Paras Ram". This, in short, supports the contention of the petitioner on several points. He says he worked for him on payment. He had already received Rs. 150 and the sum of Rs. 75 was still due. He introduces the name of Paras Ram Patwari to suggest that he was a worker of the respondents. He goes further and reminds the respondents that money was due to Bakhshish Singh for hire of carts, indicating that carts were hired to carry voters. This was written on a post card and has post office seals on it. The learned counsel for the petitioner has argued that this letter was of great importance as it proved his case conclusively. We cannot accept this contention as we are convinced that this Post Card has been written by Amar Singh only for the purpose of this case. It is not unknown that unscrupulous persons find means of getting post office seals affixed on letters and we are not prepared to attach any sanctity to the seals on this post card. There are several reasons why we have arrived at this conclusion. In the first place the post card Ex. P. 3 ought to have been in the possession of the respondents. The explanation of the petitioner that Ram Rattan gave him this letter because he got annoyed with the respondents as they did not pay his dues does not appeal to us. P.W. 14 Ram Rattan himself gives a very improbable story of how he received the letter and kept it with himself. He says that Babu Ram gave him this letter to be delivered to the respondents but the respondents did not keep it but gave it back to him. Amar Singh has appeared before us and we do not believe that he can write such a detailed letter. If the sum of Rs. 75 was due it was not necessary to mention the receipt of Rs. 150 in the letter. He states in his deposition that the respondents had settled his wages personally and not through Paras Ram Patwari and yet he directs the respondents not to send the money through him. Then the story of Bakhshish Singh's dues gives away the story altogether. This money, even if the petitioner's story could be believed, would become due only on the polling day when the carts would be used. He could not ask for the money when it had not become due. Bakhshish Singh himself does not state that he had asked Amar Singh to write for his amount. We, therefore, hold that the payment of Rs. 225 to Amar Singh has not been proved.

The next allegation is that the respondents paid Rs. 500 to Shri Lachhmi Singh Neri for the purchase of steel and iron for the construction of School building at Manligh in the month of January, 1954 and Rs. 500 were paid to Ganeshi Lal of village Dalgi for the construction of a School Building. It has not been shown to us how this expense, even if incurred amounted to Election expenses which

ought to have been included in the return of expenses. There is, however, no evidence to prove the allegation and the learned counsel for the petitioner concedes that the payment has not been proved.

There is no evidence also of the allegation that the respondents had got a pamphlet published and printed in the name of Parja Socialist Party from the Printing Service Co. Simla. P.W. 6 Krishan Dutt states that this pamphlet was in the hands of respondent No. 2 and that he showed it at a meeting at Kanda-ghat. He does not state who got them printed and whether any expense was incurred in printing them. He does not even state that respondent No. 2 distributed the pamphlets.

The last allegation is that the respondents used four loud-speakers and did not show the expense incurred in the return of expenses. Again there is no evidence that four loud-speakers were used and any expense was in fact incurred. The learned counsel for the petitioner did not press this point.

Issues 7 to 10 are decided against the petitioner.

The appendix 'F' is only a repetition of appendix 'E' and does not call for a separate consideration.

The petitioner is not entitled to any relief. The petition fails and is dismissed with costs to respondents No. 1 and 2 only. We assess the costs at Rs. 594/8/-.

(Sd.) NAWAL KISHORE, *Chairman.*

(Sd.) DALIP SINGH, *Member.*

(Sd.) KRISHNA SAHAI, *Member.*

The 30th August 1955.

[No. 82/24/54/10515.]

By Order,

P. S. SUBRAMANIAN, *Secy.*